

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:10CR259
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
GABRIEL SAUCEDA,)	
)	
Defendant.)	

The Court has received the Revised Presentence Investigation Report (“PSR”) and the parties' objections thereto (Filing Nos. 66, 67). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The parties object to the drug quantity and base offense level in ¶ 26 of the PSR. The plea agreement recommends a base offense level of 30 based on a quantity of at least 350 but less than 500 grams of a mixture or substance containing methamphetamine. The PSR states the Defendant is responsible for at least 50 but less than 150 grams of actual methamphetamine, placing him at base offense level 32. The Court's tentative findings are that, absent unusual circumstances, the plea agreement should be upheld and the base offense level should be calculated as level 30.

The Defendant raises other matters (drug treatment, credit for time served) that he may raise at sentencing if these matters are not otherwise addressed.

IT IS ORDERED:

1. The parties objections to the PSR (Filing Nos. 66, 67) are granted;

2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 2 of this Order, my tentative findings may become final; and

4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 16th day of May, 2011.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge